

Ordinance No. 19-11      ORDINANCE:

To grant Map Amendment  
Application MAP2011-00111, BP  
Associates Limited Partnership,  
Applicant

WHEREAS, BP Associates Limited Partnership, c/o Robert Eisinger, Promark Real Estate Services, LLC, 16220 S. Frederick Avenue, Suite 325, Gaithersburg, Maryland 20877-4000, filed Map Amendment Application No. MAP2011-00111, requesting that property located at 1300-1338 East Gude Drive and 14801 Southlawn Lane and known as Part of Lot 12, Block B, Burgundy Park subdivision be rezoned from the Light Industrial (I-L) Zone to the Mixed Use Employment (MXE) Zone; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chamber, 111 Maryland Avenue, Rockville, Maryland, on July 11, 2011, at 7:00 p.m. or as soon thereafter as it may be held, at which parties in interest and citizens would have an opportunity to be heard; and

WHEREAS, on the 11th day of July 2011, the said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Planning Staff recommended that the zoning application be approved; and

WHEREAS the at its meeting of June 22, 2011, Planning Commission, voted to recommend approval of the map amendment application; and

WHEREAS, the Mayor and Council has found and determined, based on all the evidence and information in the record that:

1. The current zoning of the subject property in the I-L (Light Industrial) Zone was a mistake, which occurred in 2009, when the property was part of the 2009 comprehensive map

amendment related to the rewrite of the Zoning Ordinance. When the property, which was previously zoned I-1 (Service Industrial), was rezoned as part of the 2009 comprehensive map amendment, the property was placed in the equivalent new zone, the I-L (Light Industrial) zone. However, neither of these zoning designations is consistent with the existing and permitted uses on the property. In 1983, the Mayor and Council approved a text amendment application which authorized certain retail, office and restaurant uses on the subject property. As a result, the uses on the property are not consistent with, or in conformance with its light industrial zoning classification making perpetuation of industrial zoning a mistake at the time of the 2009 comprehensive zoning.

2. The foregoing reason warrants and permits the reclassification of the subject property from the I-L, Light Industrial Zone, to the MXE, Mixed Use Employment zone;

3. The health, safety and general welfare of the City of Rockville would be served by granting the requested application.

WHEREAS, pursuant to the requirements of Article 66B, Section 4.05 of the Annotated Code of Maryland, the Mayor and Council finds, based on all the evidence and information in the record, as follows:

**Population Change** – Reclassification of the property, as requested, would not result in a population change since the property is already developed and does not include residential development.

**Availability of Public Facilities** – There are no residential units on the property nor is there a proposed redevelopment of the property at this time, therefore no schools are impacted. Fire and rescue services currently serve this site, and existing transportation systems are fully within acceptable levels of service. The subject parcel is within Washington Sanitary and Sewer Commission (WSSC) water and sewer service area. WSSC water mains are located in the East Gude Drive right-of-way. This main provides ample service for the existing development. Any additions or redevelopment of the site will require demonstration that adequate public facilities will be provided in accordance with the City's adequate public facilities ordinance (APFO).

**Present and Future Transportation Patterns** – Vehicular access to the subject parcel is presently available from Southlawn Lane and East Gude Drive. There are no plans at this time to redevelop the property, so the current development will not generate any new peak hour trips. The property is also served by the Ride On bus route 59.

**Compatibility with Existing and Proposed Development in the Area** – The project has been in existence for over 40 years with the current mixture of uses. A portion of the property proposed for annexation is requesting MXE zoning. Although neighboring properties are made up of heavy and light industrial uses, the existing development provides a mix of uses that are compatible to those that surround it. The development provides service industrial, restaurant, and retail services.

**Recommendation of the Planning Commission** – The Planning Commission, at their meeting on June 22, 2011, in accordance with the City's Zoning Ordinance, reviewed the application. No testimony was submitted and no one other than the applicant's representative addressed the Commission. The Planning Commission then voted to recommend approval of the Local Map Amendment for the proposed MXE zoning designation.

**Relationship of the Proposed Map Amendment to the Adopted Plan** – The property is located within the Southlawn/Red Gate Planning Area (Planning Area 16) of the City's Comprehensive Master Plan. The recommended land use designation in the document is Service Industrial, and the implementing zoning district for the use designation applied to the property is I-L (Light Industrial).

However, under Ordinance No. 36-83, the owner sought permission to allow retail, restaurants, offices and banks with drive-through facilities on the property, even though the portion of the property in the City was zoned I-1 (Service Industrial) and the proposed uses were not normally permitted. Pursuant to a provision in the Zoning Ordinance related to properties split by the City boundary, these uses were approved for the portion of the property in the City with the adoption of the above-referenced ordinance on October 24, 1983.

Prior to this action, in correspondence dated April 8, 1983, Montgomery County agreed with the proposed uses as approved by the City, and grandfathered the County portion of the property to the I-2 regulations as they existed in 1971, which allowed retail uses.

Both of these documents support the future use of the property for uses other than light and/or heavy industrial use. The requested MXE zoning is consistent with the allowed uses identified in the above-referenced documents. The MXE zone allows for the underlying light industrial use without precluding the use of the property for office and retail uses.

**Mayor and Council find that, MXE (Mixed-Use Employment) Zoning is the correct classification for the subject property for the following reasons:**

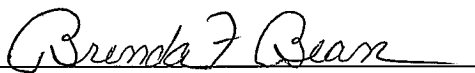
1. The MXE Zone is the most appropriate classification to implement the land use recommendations of the Rockville Comprehensive Master Plan.

2. MXE zoning and development is compatible with the existing uses and has proven compatible with the existing zoning in the neighborhood and with existing and proposed uses in the area.
3. The development standards of the MXE Zone allow for all the existing uses and some additional uses.
4. Rezoning of the property is long overdue. The property has existed for over 40 years with uses that are not normally allowed in their current industrial zones. Therefore, the current zoning of the property was a mistake and the rezoning and annexation will make the site easier to govern and will apply zoning that matches the existing development.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that based upon the findings set forth above, the Mayor and Council of Rockville concludes that there was a mistake in the existing I-L, Light Industrial Zone, warranting the reclassification of the subject property from the I-L Light Industrial Zone to the MXE, Mixed Use Employment Zone, and therefore, zoning application MAP2011-00111, be, and the same is hereby, granted.

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I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of October 24, 2011.

  
Brenda F. Bean, Acting City Clerk